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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,102	12/02/2003	Jens Barremscheen	J0658.0018	4397
38881	7590	04/09/2009	EXAMINER	
DICKSTEIN SHAPIRO LLP			LEE, CHUN KUAN	
1177 AVENUE OF THE AMERICAS 6TH AVENUE			ART UNIT	
NEW YORK, NY 10036-2714			PAPER NUMBER	
			2181	
			MAIL DATE	
			DELIVERY MODE	
			04/09/2009	
			PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JENS BARRENSCHEEN, PETER ROHM, ANGELA ROHM,  
HANNES ESTL, AXEL AUE, JENS GRAF, and HERMAN  
ROOZENBEEK

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Application No. 10/727,102  
Technology Center 2100

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Mailed: April 9, 2009

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Before DEBORAH L. PERRY, *Supervisory Paralegal Specialist, Review Team.*  
PERRY, *Supervisory Paralegal, Review Team.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on January 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed September 29, 2008 reveals that claims 23-25 in the Claims Appendix of the Appeal Brief are not consistent as amended in the last entered amendment filed on October 16, 2007.

The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed September 29, 2008 defective;
- 2) for appellant to file a “paper” in compliance with 37 CFR § 41.37, to include a corrected Claims Appendix (as identified above);
- 3) for the examiner to consider any “paper” filed by the Appellant; and
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

Application No. 10/727,102

DP/mls

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